

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-219023

DATE: March 12, 1986

MATTER OF: Jose L. Sanchez

DIGEST: A Federal employee was selected for transfer to Indianapolis by the Department of the Army and traveled there on a house-hunting trip under a travel authorization issued by the Army. The employee instead accepted and transferred to a position with the Internal Revenue Service in Indianapolis. Since the employee breached his service agreement with the Army by failing to effect the transfer to which he agreed, the Army correctly undertook to collect amounts it had advanced for the house-hunting trip. However, since the expenses were incurred at a time when there was an intent to transfer the employee to Indianapolis, we would not object to the Internal Revenue Service's reimbursement of those expenses even though incurred prior to its determination to transfer the employee.

The question presented in this matter is whether the Department of the Army is obligated to reimburse an employee for the expenses of a house-hunting trip it authorized in furtherance of the employee's transfer from Washington, D.C., to Indianapolis, Indiana, even though the employee declined that transfer and instead accepted a position with the Internal Revenue Service in Indianapolis.^{1/} In the particular circumstances we conclude that the Internal Revenue Service may reimburse the employee for the house-hunting trip.

Background

In April 1984, while employed with the Internal Revenue Service in Washington, D.C., Mr. Jose L. Sanchez sent employment applications to the offices of several Federal agencies in the vicinity of Indianapolis, Indiana. In a letter dated

^{1/} This action is in response to a request for a decision from Mr. Paul Williams, District Director, Department of the Treasury, Internal Revenue Service, Indianapolis, Indiana.

September 4, 1984, the Army Finance and Accounting Center in Indianapolis advised him that he had been selected for appointment to a management analyst position. Mr. Sanchez accepted this offer of employment, and submitted a 12-month service agreement to the concerned Army officials. They then furnished him with a written authorization to make a permanent-change-of-station move from Washington to Indianapolis. The documentation included authority for a house-hunting trip. Mr. Sanchez notified the Internal Revenue Service of his transfer to Indianapolis, and the Service established a tentative release date for him of October 13, 1984.

On September 22, 1984, Mr. Sanchez traveled from Washington to Indianapolis for the purpose of finding a house. On September 24 while in Indianapolis, he received a travel advance of \$7,948 from the Army. While in Indianapolis, he also visited the District Office of the Internal Revenue Service to inquire about employment opportunities with that agency. He completed his house-hunting trip and returned to Washington on September 28.

On October 2, 1984, the Internal Revenue Service offered Mr. Sanchez a position as an equal employment opportunity officer in Indianapolis. Several days later he accepted that offer and notified the Army. He then moved to Indianapolis and entered on duty in his new position there with the Internal Revenue Service on October 15. The Internal Revenue Service apparently authorized his move at its expense and has reimbursed his allowable relocation expenses, except those related to his September 1984 house-hunting trip.

In November 1984 Mr. Sanchez submitted a travel voucher to the Army Finance and Accounting Center claiming amounts believed due as reimbursement of his expenses for the house-hunting trip. With the voucher he included a check in the amount of \$6,922.54 to refund the unclaimed portion of the \$7,948 travel advance he had received from the Army. Army officials disallowed all amounts claimed on the travel voucher and requested that he remit the remaining balance of the travel advance in the full amount of \$1,025.46. Mr. Sanchez did not pay, and the Army then sent a notice to the District Director of Internal Revenue in Indianapolis requesting that the amount be collected through setoff against Mr. Sanchez' salary.

Internal Revenue officials now question whether the Army is due \$1,025.46 and, if so, whether appropriated funds of the Internal Revenue Service may be used to pay the Army and relieve Mr. Sanchez of liability in the matter.

Discussion

Sections 5724 and 5724a of title 5, United States Code, authorize reimbursement of the travel, transportation and relocation expenses of "an employee transferred in the interest of the Government from one official station or agency to another for permanent duty." See 5 U.S.C. § 5724(a)(1). Allowable expenses include transportation costs incurred for one round trip to seek permanent residence quarters at the new official station when both old and new stations are located within the continental United States. 5 U.S.C. § 5724a(a)(2).

As a condition to payment of relocation expenses, including the expense of a house-hunting trip, 5 U.S.C. § 5724(i) requires that the employee execute an agreement to remain in the Government service for 12 months following the date of his transfer. In the case of a violation of that agreement, including failure to accomplish the transfer, the regulations provide that any funds expended by the United States for such travel, transportation and allowances shall be recovered from the individual. Federal Travel Regulations, para. 2-1.5(1)(a) (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1984). Applicable specifically to travel for the purpose of seeking a new residence, FTR, para. 2-4.3(a), provides that an employee who accepts a transfer, makes a house-hunting trip to the new duty station and thereafter declines the transfer "is subject to the provisions of paragraph 2-1.5a(1) concerning recovery of amounts reimbursed for travel."

Because Mr. Sanchez failed to effect his transfer to the position in Indianapolis with the Department of the Army he is indebted under FTR, para. 2-1.5a(1)(a), for the cost of the house-hunting trip he took incident to that transfer. We have recognized that this regulation gives an agency authority to determine that the agreement required by 5 U.S.C. § 5724(i) was not violated where failure to effect the transfer was for reasons beyond the employee's control and acceptable to the agency concerned. Murrel Hoage, 63 Comp. Gen. 187 (1984). In Mr. Sanchez' case, however,

we have no basis to question the Army's determination that his failure to effect the transfer did not meet these standards and, therefore, that he is indebted to the Army for the \$1,025.46 amount of the travel advance he retained to cover expenses he incurred in connection with the house-hunting trip.

The Internal Revenue Service's question concerning its own authority to reimburse Mr. Sanchez' house-hunting trip expenses involves other considerations. Although we have not been furnished a copy of the permanent-change-of-station orders issued to Mr. Sanchez by that agency, he has been reimbursed by the Internal Revenue Service for his relocation expenses and it would appear that he was issued change-of-station orders at some point subsequent to October 2, 1984. The concern as to the Internal Revenue Service's authority to reimburse Mr. Sanchez for the house-hunting trip would appear to relate to the fact that these expenses were incurred prior to October 2, 1984, the date on which that agency first offered him the position in Indianapolis.

This Office has long held that expenses incurred prior to the issuance of permanent-change-of-station orders may be reimbursed only where there has been official notice of the transfer or where there was a previously existing administrative intent to transfer the employee which was clearly evident at the time the expense was incurred. 58 Comp. Gen. 208 (1979) and 53 Comp. Gen. 836 (1974). Since his house-hunting trip took place prior to the date on which the Internal Revenue Service offered him the position in Indianapolis, the house-hunting trip expenses for which Mr. Sanchez claims reimbursement were incurred prior to the time there could have been any intent on the part of that agency to effect his transfer to Indianapolis. A strict application of the above-cited decisions would require disallowance in Mr. Sanchez' case.

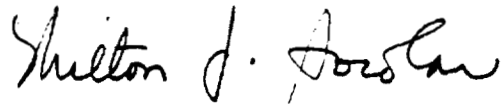
We consider it significant, however, that Mr. Sanchez' house-hunting trip was performed pursuant to valid orders issued by another Federal agency and that the trip was performed to Indianapolis, the location to which he ultimately was transferred by the Internal Revenue Service. Since Mr. Sanchez' travel to Indianapolis between September 22 and 28, 1984, was not paid for by the Army, the Internal Revenue Service would have been correct in treating that travel, not

as a house-hunting trip authorized by the Government, but as a personal matter. Provided it found a further trip for the purpose of locating a residence necessary, the Internal Revenue Service could have authorized Mr. Sanchez to take a house-hunting trip prior to his transfer within that agency. Apparently it did not do so because his earlier trip to Indianapolis had served the purpose for which a house-hunting trip is authorized. Under these circumstances we would not object to the Internal Revenue Service's payment of otherwise proper house-hunting trip expenses incurred by Mr. Sanchez between September 22 and 28, 1984. Since the travel was performed pursuant to a valid order issued by the Department of the Army, we believe it would be appropriate for the Internal Revenue Service to consider Mr. Sanchez' house-hunting trip expenses as having been incurred at a time when there was a clearly evident intent to transfer him to Indianapolis.

On the basis of the records before us, we are unable to ascertain whether all the amounts claimed, totaling \$1,025.46, are properly allowable, so that payment of Mr. Sanchez' claim for house-hunting expenses must be adjudicated by the Internal Revenue Service on the basis of a voucher and supporting documentation.

We further conclude that Mr. Sanchez, though liable to refund the balance of the travel advance he received from the Department of the Army in the amount of \$1,025.46, may be reimbursed for house-hunting trip expenses otherwise allowable by the Internal Revenue Service.

The question presented is answered accordingly.



Acting Comptroller General
of the United States